

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION**

FACEBOOK, INC., a Delaware corporation,

Plaintiff,

BRANDTOTAL, LTD., an Israeli corporation, and UNIMANIA, INC., a Delaware corporation,

Defendants.

Case No.: 3:20-CV-07182-JCS

**[PROPOSED] ORDER GRANTING
DEFENDANTS BRANDTOTAL, LTD.
AND UNIMANIA, INC.'S *EX PARTE*
MOTION FOR TEMPORARY
RESTRAINING ORDER AND ORDER TO
SHOW CAUSE WHY A PRELIMINARY
INJUNCTION SHOULD NOT ISSUE**

Judge: The Hon. Joseph C. Spero
Ctrm.: Courtroom F – 15th Floor
Date: TBD
Time: TBD

1 Having considered Defendants BrandTotal Ltd. and Unimania, Inc.’s (“BrandTotal”) *Ex
2 Parte* Motion for Issuance of a Temporary Restraining Order and Order to Show Cause Why a
3 Preliminary Injunction Should Not Issue (“Motion”) against Facebook, Inc. (“Facebook”), and
4 Facebook having been provided notice on October 14, 2020 and good cause appearing therefore:

5 IT IS HEREBY ORDERED THAT Defendants’ Motion is GRANTED.

6 The standard for issuing a temporary restraining order is essentially the same as that for
7 issuing a preliminary injunction. *See Randazza v. Cox*, 920 F. Supp. 2d 1151, 1155 (2013). To
8 obtain a temporary restraining order or a preliminary injunction, the moving party must
9 demonstrate: 1) a likelihood of success on the merits; 2) a likelihood of irreparable harm in the
10 absence of preliminary relief; 3) that the balance of equities tips in the plaintiff’s favor; and 4) that
11 an injunction is in the public interest. *See id.* The Ninth Circuit has held that district courts may
12 issue a temporary restraining order if the first two elements are met, and there are serious questions
13 going to the merits and a hardship balance that tips sharply toward the plaintiff. *See Alliance for
14 the Wild Rockies v. Cottrell*, 632 F. 3d 1127, 1134–35 (2011).

15 BrandTotal has sufficiently met this standard, showing that:

- 16 (1) absent injunctive relief, BrandTotal is likely to suffer irreparable harm, including
17 substantial disruption to its business;
- 18 (2) the balance of equities tips decidedly in BrandTotal’s favor;
- 19 (3) BrandTotal is likely to succeed on the merits of its claims as well as Facebook’s claims;
20 and
- 21 (4) the public interest would be served by the issuance of a temporary restraining order.

22 Accordingly, this Court hereby GRANTS BrandTotal’s Motion in its entirety and
23 ORDERS as follows:

24 1. Plaintiff Facebook, Inc. is ordered to:

- 25 a. rescind the takedown request to remove BrandTotal’s “UpVoice” browser
26 extension from the Google Chrome Web Store and take other reasonable actions
27 in communication with Google to make the recession effective so that UpVoice

is again available on the Google Chrome Web Store;

- b. reverse its “technical enforcement measures” blocking UpVoice from Facebook’s platform; and
- c. restore the BrandTotal and other BrandTotal principals’ Facebook pages.

2. This temporary restraining order shall take effect immediately and remain in effect until the hearing on a preliminary injunction.

3. Facebook is ordered to appear in Courtroom F in the United States District Court for the Northern District of California, San Francisco Division, on _____, 2020 at _____ am/pm to show cause, if there is any, why this Court should not enter a preliminary injunction as requested by BrandTotal.

4. No bond shall be required, as Facebook is not likely to be harmed by being so enjoined.

IT IS SO ORDERED.

Dated: , 2020

Honorable Joseph C. Spero
Chief Magistrate Judge